

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA, Plaintiff, vs. \$10,000.00 in U.S. Currency, Defendant.	CV 19-131-BLG-SPW-TJC FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECREE OF FORFEITURE
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This matter having come before the Court on the United States' Unopposed Motion for Entry of Judgment and Order of Forfeiture (Doc. 19), and the Court having reviewed the Motion and the Settlement Agreement filed with the Court, hereby makes the following Findings of Fact, Conclusions of Law, and Decree:

FINDINGS OF FACT

1. On November 19, 2019, the United States filed a Verified Complaint for Forfeiture In Rem seeking the forfeiture of \$10,000.00 in United States currency. (Doc. 1).
2. On November 19, 2019, the United States provided "direct notice" of

civil asset forfeiture action, by mailing the Notice of Complaint for Forfeiture (Doc. 2), and Verified Complaint In Rem (Doc. 1), to Daries Gross and Solomon McNair, and their Counsel, Jacek Lentz, via first class U.S. mail and Certified mail, to the address provided in their administrative claims and by law enforcement. (*See* Doc. 2).

3. Notice of this forfeiture action was also provided to known and unknown potential claimants by publishing on the government's asset forfeiture website the Notice of Forfeiture Action for 30 consecutive days, beginning on January 31, 2020, and ending on February 29, 2020. The "Notice of Forfeiture Action" provides in pertinent part as follows:

Any person claiming a legal interest in the Defendant Property must file a verified Claim with the court within 60 days from the first day of publication (January 31, 2020) of this Notice on this official government internet web site and an Answer to the complaint or motion under Rule 12 of the Federal Rules of Civil Procedure within 21 days thereafter. . . .

(Dec. of Publication, Doc. 11-1).

4. On January 29, 2020, Daries Gross and Solomon McNair each filed verified claims to the defendant currency. (Docs. 6 and 7). On February 18, 2020, Daries Gross and Solomon McNair each provided, via first class U.S. mail, their Answer to the Verified Complaint for Forfeiture *In Rem*. (Docs. 8 and 9).

6. Unknown potential claimants failed to file a claim within 60 days from

the first day of publication, and an answer or motion within 21 days thereafter as required by Supplemental Rules G(5)(a)(ii)(B) and G(5)(b) and Fed. R. Civ. P. 12. After a motion for entry of default (Doc. 15), supported by Declaration (Doc. 16), the Clerk of Court entered the default of unknown potential claimants on June 15, 2020. (Doc. 17).

7. Plaintiff and claimant, Daries Gross and Solomon McNair, entered into a Settlement Agreement, dated June 15, 2020, and filed with the Court on June 15, 2020. (Doc. 18). Pursuant to the Settlement Agreement, claimant, Daries Gross and Solomon McNair, agreed to the entry of a Decree of Forfeiture of currency to the United States in the amount of \$8,000.00, and the United States agreed to release the remaining \$2,000.00 to claimants, Daries Gross and Solomon McNair.

Based upon the foregoing findings of fact, the Court makes the following conclusions of law:

CONCLUSIONS OF LAW

8. The Court has jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355. The United States filed a Verified Complaint for Forfeiture *In Rem* to forfeit the defendant currency in the amount of \$10,000.00. Under the Settlement Agreement filed with the Court, \$8,000.00 shall be forfeited to the United States, and \$2,000.00, will be returned to claimants, Daries Gross and Solomon McNair.

9. Pursuant to 28 U.S.C. §§ 1355(b)(1)(A) and 1395(b) or (c), venue is proper in this district because this is a civil proceeding to forfeit United States Funds found in this district and the acts or omissions complained of occurred in this district.

10. In accordance with 18 U.S.C. Section 981(a)(1)(A) and Section 1956, incorporating 21 U.S.C. Section 841, the defendant currency in the amount of \$8,000.00 is subject to forfeiture. Civil forfeitures are governed by the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture.

11. Based on the facts set forth in the Verified Complaint *In Rem* and the Settlement Agreement filed with this Court, \$8,000.00 in United States currency constitutes monies furnished or intended to be furnished in exchange for a controlled substance or monies used or intended to be used to facilitate one or more violations of 21 U.S.C. § 841, a specified unlawful activity. Thus, the defendant currency is liable for forfeiture in the amount of \$8,000.00 to the United States for its use in accordance with 18 U.S.C. Section 981(a)(1)(A). The remaining currency in the amount of \$2,000.00 shall be returned to claimants, Daries Gross and Solomon McNair, under the terms of the Settlement Agreement.


12. Notice of this action was properly provided in accordance with

Supplemental Rule G(4). No other persons, other than Daries Gross and Solomon McNair, have filed a claim, and Daries Gross and Solomon McNair have settled this matter. Default is proper to any other potential known or unknown claimants under Fed. R. Civ. P. 55(b)(2).

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. The United States currency in the amount of \$8,000.00 is forfeited to the United States and shall be disposed of in accordance with the law.
2. The remaining currency in the amount of \$2,000.00 shall be returned to claimants, Daries Gross and Solomon McNair.
3. The United States Marshal's Service is directed, pursuant to the terms of the settlement agreement, to make payment in the amount of \$2,000.00 to claimants, Daries Gross and Solomon McNair, and their Counsel, Jacek W. Lentz.
4. Any other claims to the defendant currency by persons are barred by default.

DATED this 16th day of June, 2020.


Susan P. Watters
United States District Judge